

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

WILLIAM T. BURTON AND)	
KATHERINE BURTON,)	
)	CIVIL ACTION FILE
PLAINTIFFS,)	NO. 4:14-CV-99-HLM
)	
v.)	
)	
THE CITY OF ADAIRSVILLE,)	
GEORGIA, ROBERT JONES, DANNY)	
MOORE, MICHAEL BALDWIN, AND)	
CATHY DALE in their Individual and)	
Official Capacities,)	
)	
DEFENDANTS/THIRD-PARTY)	
PLAINTIFFS)	
)	
v.)	
)	
CHRISTOPHER SHAE HOVERS;)	
BRANDON EKEY; WILLIAM)	
SCHWARTZ; and MICHAEL CHAD)	
JOHNSON in their Individual and Official)	
Capacities)	
)	
THIRD-PARTY DEFENDANTS		

**DEFENDANTS THE CITY OF ADAIRSVILLE, GEORGIA, ROBERT
JONES, DANNY MOORE AND CATHY DALE’S THIRD-PARTY
COMPLAINT AGAINST CHRISTOPHER SHAE HOVERS, BRANDON
EKEY, WILLIAM SCHWARTZ, AND MICHAEL CHAD JOHNSON IN
THEIR INDIVIDUAL AND OFFICIAL CAPACITIES**

Defendants/third-party plaintiffs, The City of Adairsville, Georgia, Robert Jones, Danny Moore, and Cathy Dale (hereinafter collectively referred to as “defendants”) file this third-party action pursuant to Federal Rule of Civil Procedure 14 against third-party defendants Christopher Shae Hovers (hereinafter referred to as “Hovers”), Brandon Ekey (hereinafter referred to as “Ekey”), William Schwartz (hereinafter referred to as “Schwartz”), and Michael Chad Johnson (hereinafter referred to as “Johnson”), each in his individual and official capacity. In support of their third-party complaint, defendants show this Court as follows:

1.

Plaintiffs William T. Burton and Katherine Burton (hereinafter collectively referred to as “Plaintiffs”) filed a complaint for damages in this court [Doc. #5].

2.

Defendants answered plaintiff’s complaint for damages on June 16, 2014. [Doc #15].

3.

Pursuant to Federal Rule of Civil Procedure 14(a), defendants file this third-party complaint within 14 days of the filing of their answer to Plaintiffs' complaint for damages such that leave of court is not required.

4.

At all times relevant, Hovers was acting as a Floyd County Police Officer discharging his official duties. He may be served at the Floyd County Police Department, 5 Government Plaza, Rome, Georgia 30161. Once served, Hovers is subject to the personal jurisdiction of this Court.

5.

At all times relevant, Ekey was acting as a Floyd County Police Officer discharging his official duties. He may be served at the Floyd County Police Department, 5 Government Plaza, Rome, Georgia 30161. Once served, Ekey is subject to the personal jurisdiction of this Court.

6.

At all times relevant, Schwartz was acting as a Floyd County Police Officer discharging his official duties. He may be served at the Floyd County Police

Department, 5 Government Plaza, Rome, Georgia 30161. Once served, Schwartz is subject to the personal jurisdiction of this Court.

7.

At all times relevant, Johnson was acting as a Floyd County Police Officer discharging his official duties. He may be served at the Floyd County Police Department, 5 Government Plaza, Rome, Georgia 30161. Once served, Johnson is subject to the personal jurisdiction of this Court.

8.

This Court has subject matter over the claims raised herein pursuant to 28 U.S.C. §§ 1331, 1343 and 1367.

9.

In their complaint, plaintiffs allege that on or about midnight on May 31, 2012, they suffered personal injuries and damages as a result of his civil rights being violated when force was used against plaintiff William T. Burton by Floyd County Police Officers.

10.

Upon information and belief, Hovers, Ekey, Schwartz and Johnson entered plaintiffs' home on that date, and one or more of them used force against plaintiff

William T. Burton resulting in the injuries plaintiffs are claiming in their complaint.

COUNT ONE: INDEMNITY

11.

Defendants hereby re-allege all information contained in the foregoing paragraphs as if fully restated herein.

12.

Defendants answered Plaintiffs' complaint denying liability for the claims asserted. In the alternative that Defendants are found liable, however, the damages plaintiffs claim would not have been sustained but for tortious acts or omissions of the Third Party Defendants, jointly or separately.

13.

WHEREFORE, in the event Defendants are found liable to Plaintiffs, one or more of the Third-Party Defendants owe indemnity to Defendants for any damages awarded to Plaintiffs against defendants.

COUNT TWO: CONTRIBUTION

14.

Defendants hereby re-allege all information contained in the foregoing paragraphs as if fully restated herein.

15.

Defendants answered Plaintiffs' complaint denying liability for the claims asserted. In the alternative that Defendants are found liable, however, the damages plaintiff claim were proximately caused in part by tortious acts or omissions of the Third Party Defendants, jointly or separately.

16.

WHEREFORE, in the event Defendants are found liable to Plaintiffs, one or more of the Third-Party Defendants owe contribution for their share of any damages awarded to Plaintiffs against Defendants.

RELIEF SOUGHT

17.

WHEREFORE, Defendants seek the following:

- (a) that Summons and Process for this third-party complaint issue as to the third-party defendants as provided by law;

- (b) that in the event Defendants are found liable to Plaintiffs, judgment be entered against the Third-Party Defendants for indemnity and/or contribution, for sums that may be awarded against Defendants and in favor of Plaintiffs;
- (c) that Defendants have a jury as to all triable issues involving this Third-Party Complaint; and
- (d) that Defendants have such other and further relief is equitable and just under the circumstances.

FREEMAN MATHIS & GARY, LLP

/s/ Wayne S. Melnick

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of DEFENDANTS THE CITY OF ADAIRSVILLE, GEORGIA, ROBERT JONES, DANNY MOORE AND CATHY DALE'S THIRD-PARTY COMPLAINT AGAINST CHRISTOPHER SHAE HOVERS, BRANDON EKEY, WILLIAM SCHWARTZ, AND MICHAEL CHAD JOHNSON IN THEIR INDIVIDUAL AND OFFICIAL CAPACITIES has been filed with the Clerk of Court using the CM/ECF system which will automatically send electronic mail notification of such filing to counsel of record who are CM/ECF participants. Counsel of record is as follows:

Anthony N. Perotta, Esq.
Robert W. Lamb, Esq.
5 South Public Square
Cartersville, GA 30120

This 26th day of June, 2014.

/s/ Wayne S. Melnick

Wayne S. Melnick
Georgia Bar No. 501267

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Danny Moore, and Cathy Dale

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